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Attorney for Defendant
BERNADETTE ESCUE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	No. CR 07-00610 JF
)	
Plaintiff,)	STIPULATION AND [Proposed]
)	ORDER RE: RESTITUTION
v.)	
)	
BERNADETTE ESCUE,)	
)	
Defendant.)	
)	

Defendant Bernadette Escue, through counsel, and Plaintiff United States of America, through counsel, hereby stipulate as follows:

1. Ms. Escue has been sentenced (in terms of a prison sentence and related conditions). At the initial sentencing hearing, the Court set a further hearing date to addresses issues concerning the determination of restitution.

2. The parties have discussed this matter further, and have discussed this matter also with counsel for Network Appliance, Inc. ("Network"), the party whose restitution claim has been in dispute. In light of these discussions, and with the concurrence of Network (through its counsel), the parties agree that the restitution issues should be resolved as follows.

3. The amount of loss is \$90,297.53. The order for restitution should reflect that of this amount, \$50,000.00 is payable to Network as the amount it paid to its insurer (Chubb Group of Insurance Companies ("Chubb")) for the deductible applicable under its insurance policy, and \$40,297.53 is payable to Chubb as the sum paid by Chubb to Network under the insurance policy.

4. In addition to the above-noted loss, Network previously submitted a request for restitution in the amount of \$126,684.00 for fees incurred by Network for the work conducted by Huron Consulting Group ("Huron") in determining the loss amount. As to this aspect of restitution, counsel for Ms. Escue has had conversations with counsel for Network. As a result, Ms. Escue and Network have agreed that Network will reduce its request for restitution for the cost of Huron's work to \$20,000.00, subject to the understanding that Ms. Escue will drop her challenge to that portion of the award (as reduced). The Government, counsel for Huron, and the Probation Officer all are aware of this and agree with this resolution. Defense counsel has spoken with his client, and she agrees with this resolution.

5. By this, there will be no need for Huron to file the declaration that otherwise was due to be filed with the Court by September 24, 2008, and there will be no need for the evidentiary hearing that was otherwise scheduled for October 1, 2008.

6. To summarize, the parties stipulate that the Court may and should enter an order for restitution as follows, under the terms otherwise set forth in the Presentence Report submitted previously to the Court:

a.	Payable to Network Appliance:	\$70,000.00
b.	Payable to Chubb Group of Insurance Companies:	<u>\$40,297.53</u>
	Total:	\$110,297.53

7. In light of the foregoing, the parties respectfully request that the Court enter an order and amended judgment in accordance with this stipulation.

IT IS SO STIPULATED.

Dated: September 29, 2008

Joseph P. Russoniello
United States Attorney

/S/ _____
Joseph A. Fazioli
Assistant United States Attorney

Dated: September 29, 2008

/S/ _____
Mark R. Vermeulen
Attorney for Defendant
BERNADETTE ESCUE

ORDER

Based on the foregoing stipulation, and good cause appearing,

IT IS HEREBY ORDERED that Defendant Bernadette Escue shall pay restitution as follows, under the terms otherwise set forth in the Presentence Report submitted previously to the Court, which shall be set forth in an amended judgment issued by the Court:

a. Payable to Network Appliance: \$70,000.00

b. Payable to Chubb Group of Insurance Companies: \$40,297.53

Total: \$110,297.53

IT IS FURTHER ORDERED that the hearing date of October 1, 2008, previously set for the resolution of restitution issues, is vacated.

IT IS SO ORDERED.

Dated: 9/30/08



Jeremy Fogel
United States District Judge